

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

JOSHUA SHUMAN, a minor by and
through his mother and natural guardian
**TERESA SHERTZER, and TERESA
SHERTZER**, individually

Plaintiffs,

v.

**PENN MANOR SCHOOL DISTRICT,
PENN MANOR SCHOOL BOARD,
GARY B. CAMPBELL**, individually and as
Superintendent of the Penn Manor
School District,
**AND
DONALD STEWART**, individually and as
Acting Superintendent of the Penn Manor
School District
**AND
JANICE M. MINDISH**, individually and as
Principal of Penn Manor High School,
**AND
BRIAN D. BADDICK**, individually and as
Assistant Principal of Penn Manor High
School,
**AND
PHILIP B. GALE**, individually and as Dean
of Students of Penn Manor High School,
**AND
CAROLE FAY**, individually and as a teacher
and Agriculture Coordinator at Penn Manor
High School

Defendants.

CIVIL ACTION NO. 02-CV-3594

(GARDNER)

DEFENDANTS, PENN MANOR SCHOOL DISTRICT, PENN MANOR SCHOOL BOARD, DONALD STEWART, JANICE M. MINDISH, BRIAN D. BADDICK, PHILIP GALE, AND CAROLE FAY'S PROPOSED VERDICT SHEET

The Defendants, Penn Manor School District, Penn Manor School Board, Donald Stewart, Superintendent of the Penn Manor School District, Janice M. Mindish, Principal of Penn Manor High School, Brian D. Baddick, Assistant Principal of Penn Manor High School, Philip Gale, Assistant Principal of Penn Manor High School, and Carole Fay,

teacher and Agriculture Coordinator at Penn Manor High School (hereinafter sometimes collectively referred to as "Defendants"), present the following Proposed Verdict Sheet:¹

1. Do you find that Plaintiffs have established by a preponderance of the evidence that the Defendants violated his First Amendment Right to receive information and ideas?

Yes_____ No_____

(If you answered "Yes" to Question No. 1, continue with Question 1(a). If you answered "No" to Question No. 1, proceed to Question 2.)

- (a) Do you find that Defendant, Donald Steward, violated clearly established First Amendment Constitutional rights of which a reasonable person would have known?

Yes_____ No_____

(Proceed to Question No. 1(b)).

- (b) Do you find that Defendant, Janice Mindish, violated clearly established First Amendment Constitutional rights of which a reasonable person would have known?

Yes_____ No_____

(Proceed to Question No. 1(c)).

- (c) Do you find that Defendant, Philip Gale, violated clearly established First Amendment Constitutional rights of which a reasonable person would have known?

Yes_____ No_____

(Proceed to Question No. 1(d)).

- (d) Do you find that Defendant, Brian Baddick, violated clearly established First Amendment Constitutional rights of which a reasonable person would have known?

Yes_____ No_____

¹ Defendants reserve the right to amend this Proposed Verdict Sheet based upon the Court's ruling on the pending Motion for Summary Judgment. Defendants have also intentionally left out a question relating to negligence because Plaintiffs, in their pretrial submissions, have described this claim as intentional in nature and Defendants are unable to determine the nature of the claim.

(Proceed to Question No. 1(e)).

- (e) Do you find that Defendant, Carole Fay, violated clearly established First Amendment Constitutional rights of which a reasonable person would have known?

Yes_____ No_____

(Proceed to Question No. 1(f)).

- (f) Do you find that the Plaintiffs have proven by a preponderance of the evidence the existence of a Penn Manor School District policy, practice or custom which is the moving force behind the First Amendment Violation?

Yes_____ No_____

(Proceed to Question No. 2).

2. Do you find that Plaintiffs have established by a preponderance of the evidence that the Defendants violated Joshua Shuman's Fourth Amendment right to be free from unreasonable seizure?

Yes_____ No_____

(If you answered "Yes" to Question No. 2, continue with Question 2(a). If you answered "No" to Question No. 2, proceed to Question 3.)

- (a) Do you find that Defendant, Donald Steward, violated a clearly established Fourth Amendment right to be free from unreasonable seizure of which a reasonable person would have known?

Yes_____ No_____

(Proceed to Question No. 2(b)).

- (b) Do you find that Defendant, Janice Mindish, violated a clearly established Fourth Amendment right to be free from unreasonable seizure of which a reasonable person would have known?

Yes_____ No_____

(Proceed to Question No. 2(c)).

(c) Do you find that Defendant, Philip Gale, violated a clearly established Fourth Amendment right to be free from unreasonable seizure of which a reasonable person would have known?

Yes _____ No _____

(Proceed to Question No. 2(d)).

(d) Do you find that Defendant, Brian Baddick, violated a clearly established Fourth Amendment right to be free from unreasonable seizure of which a reasonable person would have known?

Yes _____ No _____

(Proceed to Question No. 2(e)).

(e) Do you find that Defendant, Carole Fay, violated a clearly established Fourth Amendment right to be free from unreasonable seizure of which a reasonable person would have known?

Yes _____ No _____

(Proceed to Question No. 2(f)).

(f) Do you find that the Plaintiffs have proven by a preponderance of the evidence the existence of a Penn Manor School District policy, practice or custom which is the moving force behind the Fourth Amendment right to be free from unreasonable seizure?

Yes _____ No _____

(Proceed to Question No. 3).

3. Do you find that Plaintiffs have established by a preponderance of the evidence that the Defendants violated Joshua Shuman's Fourteenth Amendment Equal Protection rights by discriminating against him on the basis of his gender?

Yes _____ No _____

(If you answered "Yes" to Question No. 3, continue with Question 3(a). If you answered "No" to Question No. 3, proceed to Question 4.)

- (a) Do you find that Defendant, Donald Steward, violated a clearly established Fourteenth Amendment Equal Protection right to be free from discrimination on the basis of gender of which a reasonable person would have known?

Yes_____

No_____

(Proceed to Question No. 3(b)).

- (b) Do you find that Defendant, Janice Mindish, violated a clearly established Fourteenth Amendment Equal Protection right to be free from discrimination on the basis of gender of which a reasonable person would have known?

Yes_____

No_____

(Proceed to Question No. 3(c)).

- (c) Do you find that Defendant, Philip Gale, violated a clearly established Fourteenth Amendment Equal Protection right to be free from discrimination on the basis of gender of which a reasonable person would have known?

Yes_____

No_____

(Proceed to Question No. 3(d)).

- (d) Do you find that Defendant, Brian Baddick, violated a clearly established Fourteenth Amendment Equal Protection right to be free from discrimination on the basis of gender of which a reasonable person would have known?

Yes_____

No_____

(Proceed to Question No. 3(e)).

- (e) Do you find that Defendant, Carole Fay, violated a clearly established Fourteenth Amendment Equal Protection right to be free from discrimination on the basis of gender of which a reasonable person would have known?

Yes_____

No_____

(Proceed to Question No. 3(f)).

- (f) Do you find that the Plaintiffs have proven by a preponderance of the evidence the existence of a Penn Manor School District policy, practice or custom which is the moving force behind the Fourteenth Amendment Equal Protection violation?

Yes _____ No _____

(Proceed to Question No. 4).

4. Do you find that Plaintiffs have established by a preponderance of the evidence that the Defendants violated their Fourteenth Amendment Procedural Due Process Rights by failing to give him notice and opportunity to respond to the charges against him?

Yes _____ No _____

(If you answered "Yes" to Question No. 4, continue with Question 4(a). If you answered "No" to Question No. 4, proceed to Question 5).

- (a) Do you find that Defendant, Donald Steward, violated a clearly established Fourteenth Amendment Due Process right of which a reasonable person would have known?

Yes _____ No _____

(Proceed to Question No. 4(b)).

- (b) Do you find that Defendant, Janice Mindish, violated a clearly established Fourteenth Amendment Due Process right of which a reasonable person would have known?

Yes _____ No _____

(Proceed to Question No. 4(c)).

- (c) Do you find that Defendant, Philip Gale, violated a clearly established Fourteenth Amendment Due Process right of which a reasonable person would have known?

Yes _____ No _____

(Proceed to Question No. 4(d)).

- (d) Do you find that Defendant, Brian Baddick, violated a clearly established Fourteenth Amendment Due Process right of which a reasonable person would have known?

Yes _____ No _____

(Proceed to Question No. 4(e)).

- (e) Do you find that Defendant, Carole Fay, violated a clearly established Fourteenth Amendment Due Process right of which a reasonable person would have known?

Yes _____ No _____

(Proceed to Question No. 4(f)).

- (f) Do you find that the Plaintiffs have proven by a preponderance of the evidence the existence of a Penn Manor School District policy, practice or custom which is the moving force behind the Fourteenth Amendment Due process violation?

Yes _____ No _____

(Proceed to Question No. 5).

5. Do you find that Plaintiffs have established by a preponderance of the evidence (a) that the Defendants engaged in extreme and outrageous conduct; (b) which conduct was intentional or reckless; (c) which conduct caused emotional distress; and (d) which emotional distress was severe as established through expert testimony?

Yes _____ No _____

(Proceed to Question No. 6).

6. Do you find that Plaintiffs have proven by a preponderance of the evidence that they have sustained actual injury(s) caused by the Defendants?

Yes _____ No _____

(If you answered "Yes" to Question No. 6, proceed to Question No. 7. If you answered "No" to Question No. 6, your deliberations have been completed. Please inform the law clerk).

7. How much money are Plaintiffs entitled to receive to fairly compensate them for actual injury(s) sustained?

\$ _____

(Proceed to Question No. 8).

8. Plaintiffs have requested punitive damages. (a) Do you find that the Defendants should be punished for outrageous conduct to deter them and others like them from similar conduct in the future and (b) Defendants engaged in conduct that is outrageous, because of the Defendants' evil motive or reckless indifference to the rights of Plaintiffs?

Yes _____

No _____

(If you answered "Yes" to Question No. 8, proceed to Question No. 9. If you answered "No" to Question No. 8, your deliberations have been completed. Please inform the law clerk).

9. How much money are Plaintiffs entitled to receive as punitive damages?

\$ _____

You have completed your deliberations; please inform the law clerk.

Date: _____

Foreperson